
IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

FEDERAL CARBIDE COMPANY

Plaintiff

v.

Civil Action No. 3. 3:15-cv-248

EXETER CONSTRUCTION, LLC., and
DENNIS B. BALLARD

Judge Kim R. Gibson

Defendants

**DEFENDANT’S UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE
RESPONSE TO PLAINTIFF’S MOTION TO DISMISS**

AND NOW, comes Defendants, Exeter Construction, LLC (“Exeter”) and Dennis B. Ballard (“Ballard”) by its counsel Babst, Calland, Clements and Zomnir, P.C., and files the following Unopposed Motion for Extension of Time to File Response to Plaintiff’s Motion to Dismiss:

1. Plaintiff Federal Carbide Company (“FCC”) filed a Complaint against Exeter and Ballard alleging causes of action in fraudulent inducement, breach of contract, breach of warranty, and specific performance.
2. Defendant Exeter filed a Counterclaim against FCC alleging causes of action in breach of contract, violation of Pennsylvania’s Contractor and Subcontractor Payment Act, and unjust enrichment.
3. On April 6, 2016, Plaintiff FCC filed a Motion to Dismiss Defendant Exeter’s Counterclaim. Defendant Exeter’s Response is due April 27, 2016.
4. Defendant Exeter respectfully moves for a five (5) day extension of time, up to and including May 2, 2016, to file a response to Plaintiff FCC’s Motion to Dismiss.
5. Plaintiff’s Counsel is not opposed to Exeter’s request for an extension.

6. The extension is not sought for purposes of undue delay. Counsel for Exeter requires additional time to confer with Exeter's principle, who lives out of state, along with other employees and subcontractors on the Project to address the allegations contained in the Motion to Dismiss and appropriately respond to them.

7. Defendant Exeter has not previously requested or received any extension to its briefing schedule. This request is being made prior to the deadline for a Response.

8. Exeter therefore respectfully requests that its Response to Plaintiff's Motion to Dismiss be extended for a period of five (5) days, up to and including May 2, 2016.

WHEREFORE, Exeter respectfully requests that this Court extend Exeter's Motion to Dismiss Response deadline to May 2, 2016.

Respectfully Submitted,

/s/ Robert M. Palumbi, Esq.

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Counsel for Defendants

Dated: April 25, 2016

CERTIFICATE OF SERVICE

I hereby certify that on April 25, 2016 I electronically submitted the foregoing document to the Clerk of the Court for the United States District Court for the Western District of Pennsylvania, using the electronic case files system of the Court. The electronic case files system sent a “Notice of Electronic Filing” to the following individuals who, by rule, have consented to accept the Notice as service of this document by electronic means:

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Counsel for Plaintiff Federal Carbide Company

/s/ Robert M. Palumbi, Esq.